

STATE OF SOUTH CAROLINA )

(Caption of Case) )

Application of Total Holdings, Inc. d/b/a GTC )  
Communications for a Certificate of Public )  
Convenience and Necessity to Provide Interexchange )  
Telecommunications Services Throughout the State of )  
of South Carolina and for Alternative Regulation )  
)  
)  
)  
)

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

COVER SHEET

DOCKET  
NUMBER: 2008 - 440 - C

(Please type or print)

Submitted by: John J. Pringle, Jr.

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other: \_\_\_\_\_

INDUSTRY (Check one)

- ☐ Electric  
☐ Electric/Gas  
☐ Electric/Telecommunications  
☐ Electric/Water  
☐ Electric/Water/Telecom.  
☐ Electric/Water/Sewer  
☐ Gas  
☐ Railroad  
☐ Sewer  
☒ Telecommunications  
☐ Transportation  
☐ Water  
☐ Water/Sewer  
☐ Administrative Matter  
☐ Other: \_\_\_\_\_

NATURE OF ACTION (Check all that apply)

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Affidavit                 | <input type="checkbox"/> Letter                            | <input type="checkbox"/> Request                             |
| <input type="checkbox"/> Agreement                 | <input type="checkbox"/> Memorandum                        | <input type="checkbox"/> Request for Certification           |
| <input type="checkbox"/> Answer                    | <input type="checkbox"/> Motion                            | <input type="checkbox"/> Request for Investigation           |
| <input type="checkbox"/> Appellate Review          | <input type="checkbox"/> Objection                         | <input type="checkbox"/> Resale Agreement                    |
| <input type="checkbox"/> Application               | <input type="checkbox"/> Petition                          | <input type="checkbox"/> Resale Amendment                    |
| <input type="checkbox"/> Brief                     | <input type="checkbox"/> Petition for Reconsideration      | <input type="checkbox"/> Reservation Letter                  |
| <input type="checkbox"/> Certificate               | <input type="checkbox"/> Petition for Rulemaking           | <input type="checkbox"/> Response                            |
| <input type="checkbox"/> Comments                  | <input type="checkbox"/> Petition for Rule to Show Cause   | <input type="checkbox"/> Response to Discovery               |
| <input type="checkbox"/> Complaint                 | <input type="checkbox"/> Petition to Intervene             | <input type="checkbox"/> Return to Petition                  |
| <input type="checkbox"/> Consent Order             | <input type="checkbox"/> Petition to Intervene Out of Time | <input type="checkbox"/> Stipulation                         |
| <input type="checkbox"/> Discovery                 | <input type="checkbox"/> Prefiled Testimony                | <input type="checkbox"/> Subpoena                            |
| <input type="checkbox"/> Exhibit                   | <input type="checkbox"/> Promotion                         | <input type="checkbox"/> Tariff                              |
| <input type="checkbox"/> Expedited Consideration   | <input type="checkbox"/> Proposed Order                    | <input checked="" type="checkbox"/> Other: <u>Settlement</u> |
| <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest                           | <u>Agreement</u>   |
| <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit             |  |
| <input type="checkbox"/> Late-Filed Exhibit        | <input type="checkbox"/> Report                            |  |

Print Form

Reset Form

# ELLIS:LAWHORNE

John J. Pringle, Jr.  
Direct dial: 803/343-1270  
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February 26, 2009

## **FILED ELECTRONICALLY**

The Honorable Charles L.A. Terreni  
Chief Clerk  
**South Carolina Public Service Commission**  
Post Office Drawer 11649  
Columbia, South Carolina 29211

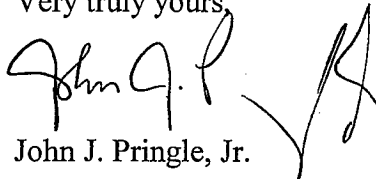
RE: Application of Total Holdings, Inc. d/b/a GTC Communications for a  
Certificate of Public Convenience and Necessity to Provide Interexchange  
Telecommunications Services Throughout the State of South Carolina  
and for Alternative Regulation  
**Docket No. 2008-440-C, Our File No. 1761-11619**

Dear Mr. Terreni:

Enclosed is the **Settlement Agreement** executed by Total Holdings, Inc. and the  
Office of Regulatory Staff, filed in the above-referenced docket.

If you have any questions or need additional information, please do not hesitate to  
contact me.

Very truly yours,



John J. Pringle, Jr.

JJP/cr

cc: Randall Dong, Esquire (via electronic mail service)  
C. Lessie Hammonds, Esquire (via electronic mail service)  
Nathaniel Law, Esquire (via electronic mail service)

Enclosure

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2008-440-C**

<b>In Re:</b>	)	
<b>Application of Total Holdings, Inc. d/b/a</b>	)	
<b>GTC Communications for a Certificate</b>	)	
<b>of Public Convenience and Necessity to</b>	)	
<b>Provide Resold Interexchange</b>	)	<b>SETTLEMENT AGREEMENT</b>
<b>Telecommunications Services and</b>	)	
<b>Alternative Regulation</b>	)	

This Settlement Agreement ("Settlement Agreement") is made by and among the Office of Regulatory Staff ("ORS") and Total Holdings, Inc. d/b/a GTC Communications ("Total Holdings" or "the Company") (collectively referred to as the "Parties" or sometimes individually as "Party");

WHEREAS, on December 4, 2008, the Company filed its Application requesting: (i) a Certificate of Public Convenience and Necessity be granted authorizing the Company to provide resold interexchange services throughout the State of South Carolina; (ii) alternative regulation of its interexchange services, in accordance with Orders 95-1734 and 96-55 in Docket No. 96-661-C; (iii) for waiver of certain Commission Regulations, specifically Regulation 103-610 regarding location of records; and (iv) a waiver of any requirement to maintain financial records in conformance with the Uniform System of Accounts ("USOA") as the Company utilizes Generally Accepted Accounting Principles (GAAP) to maintain its books and records;

WHEREAS, on January 16, 2008, the Company pre-filed the direct testimony of Nathaniel Law with the Commission;

WHEREAS, the purpose of this proceeding is to review the application filed by the Company and its requests: (i) for a Certificate of Public Convenience and Necessity to provide resold interexchange telecommunications services within the State of South Carolina; (ii) for alternative regulation of its interexchange services consistent with Orders 95-1734 and 96-55 in Docket No. 96-661-C; (iii) for waiver of certain Commission Regulations, specifically Regulations 103-610 regarding location of records; and (iv) for waiver of any requirement to maintain financial records in conformance with the USOA;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of the Company to provide the services requested in the Application;

WHEREAS, ORS has reviewed the Application and the financial data provided by the Company, and ORS has calculated certain performance ratios based upon information provided by the Company;

WHEREAS, ORS has investigated the services to be offered by the Company and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by the Company;

WHEREAS, ORS has reviewed the pre-filed testimony of Nathaniel Law;

WHEREAS, as a result of its investigations, ORS has determined: (a) the Company intends to offer resold long-distance telecommunications services in the state of South Carolina; (b) the Company's officers possess sufficient technical and managerial abilities to adequately provide the services applied for; (c) based upon the information provided, the Company appears to have access to sufficient financial resources necessary to provide the services proposed in its application; (d) the Company's proposed tariffs with the amendments as agreed to in this

Settlement Agreement comply with Commission statutes and regulations; (e) the services as outlined and offered by the Company will meet the service standards required by the Commission; (f) the provision of services by the Company will not adversely impact the availability of affordable telecommunications services; (g) to the extent it is required to do so by the Commission, the Company will participate in the support of universally available telephone service at affordable rates; and (h) the provision of services by the Company will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1) The Parties agree that the Company's Application and exhibits to the Application are incorporated into this Settlement Agreement and made a part hereof;

2) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed testimony of the Company's witness Nathaniel Law without cross-examination by ORS;

3) The Company has submitted financial data which was provided as Exhibit 4 to the Application and which financial data is incorporated by reference;

4) The Parties agree that the Company should be granted a Certificate of Public Convenience and Necessity to provide resold interexchange telecommunications services within the state of South Carolina;

5) The Company has requested a waiver of 26 S.C. Code Ann. Regs. 103-610 concerning the location of books and records. However, S.C. Code Ann. §58-9-380 (Supp. 2007)

provides that:

Each telephone utility shall have an office in one of the counties of this State in which its property or some part thereof is located and shall keep in such office all such books, accounts, papers and records as shall reasonably be required by the Office of Regulatory Staff. No books, accounts, papers or records required by the ORS to be kept within the State shall be removed at any time from the State except upon such conditions as may be prescribed by the Office of Regulatory Staff.

ORS is agreeable to allowing the Company to maintain its books and records outside of the State of South Carolina in exchange for the Company agreeing to provide access to its books and records. ORS is agreeable to the Company maintaining its books and records at its principal offices in the State of California, and the Company agrees to notify the ORS of any change in the location of the principal office or in the location where the books and records are maintained. This provision of the Settlement Agreement shall not be construed as a waiver by ORS of S.C. Code Ann. § 58-4-55 (Supp. 2007) or § 58-9-1070 (Supp. 2007). ORS expressly reserves its rights to require the production of books, records, and other information located within or outside of the State of South Carolina in order to carry out its duties and compliance with any state or federal regulation;

6) The Company has requested a waiver of any rule or regulation that might require a carrier to maintain its financial records in conformance with the USOA. The Company acknowledges that S.C. Code Ann. § 58-9-340 (Supp. 2007) provides that the ORS may, in its discretion and subject to the approval of the Commission, prescribe systems of accounts to be kept by telephone utilities subject to the commission's jurisdiction and that the ORS may prescribe the manner in which the accounts shall be kept and may require every telephone utility to keep its books, papers, and records accurately and faithfully according to the system of accounts as prescribed by the ORS. The Company agrees to keep its books, papers, and records

in such a manner that permits ORS to audit its revenues and expenses for compliance with programs such as but not limited to the Universal Service Fund (“USF”), the Interim LEC Fund, and gross receipts. The Company agrees to complete the reporting forms for programs such as but not limited to the annual report, USF, Interim LEC, and gross receipts as may be required by the ORS of telecommunications companies certificated to operate within South Carolina and as the reporting forms may be amended from time to time;

7) ORS does not oppose the Company’s requests: (a) for alternative regulation of its interexchange business services, consumer card services, and operator services consistent with the procedures described and set forth in Orders 95-1734 and 96-55 in Docket No. 96-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C, specifically (i) regulation of these services listed above in the same manner as these services are regulated for AT&T Communications of the Southern States, Inc., (ii) removal of the maximum rate tariff requirements for the Company’s business services, private line, and customer network-type offerings, except in instances governed by Order No. 2001-997 which reinstituted maximum rates for surcharges and rates associated with certain intrastate operator-assisted calls; (iii) presumptively valid tariff filings for these interexchange services unless an investigation of a particular filing is instituted within seven (7) days, in which case the tariff filing will be suspended until resolution of the investigation or until further order of the Commission; and (iv) allowing the Company the same treatment as AT&T Communications of the Southern States, Inc. in connection with any future relaxation of reporting requirements;

8) The Company agrees to resell the services only of those carriers authorized to do business in South Carolina by the Commission;

9) The Company agrees that it will allow an end-user of resold services to access an

alternative interexchange carrier or operator service provider if the end-user expresses such a desire;

10) The Company agrees to file necessary financial and/or other information with the ORS and the Commission for universal service fund reporting, interim LEC fund reporting, annual reporting, gross receipts reporting, and/or any other reporting which may now or in the future be applicable to telecommunications providers such as the Company. The Parties agree that such reports shall be filed pursuant to ORS's instructions and monies shall be remitted in accordance with the directions of the ORS and the Commission requirements;

11) The Company agrees to maintain its books and records in a manner that would permit ORS to examine any of its reports filed with the Commission and provided to ORS;

12) The Company agrees to file with the Commission and ORS a completed authorized utility representative form within thirty (30) days of the Commission's order;

13) In the event the Company intends to offer prepaid calling card services in the future, the Company agrees that it shall file a request with the Commission and post a surety bond or certificate of deposit for prepaid services in the amount of \$5,000 as required by the Commission, prior to offering such services;

14) The Company agrees to comply with the verification regulations governing change of preferred carriers as established by Federal Communications Commission ("FCC"). In addition, in the event that the Company offers long distance services to end users, the Company agrees to comply with the marketing practices and guidelines established by the Commission in Order No. 95-658;

15) The Company agrees to comply with South Carolina Code Section § 58-9-300 entitled "Abandonment of Service." Additionally, to the extent applicable, the Company agrees



to adhere to the FCC's rule 47 C.F.R. §§ 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, the Company shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

16) The Company agrees to comply with all rules and regulations of the Commission unless the Commission has expressly waived such rule or regulation;

17) The Company agrees to file a final revised tariff with both the ORS and the Commission that is consistent with the tariff revisions provided to ORS on January 12, 2009. The revised tariff shall reflect and be in accordance with ORS's recommendations;

18) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

19) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its

adoption. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein;

20) The Parties represent that the terms of this Settlement Agreement are based upon full and accurate information known as of the date this Settlement Agreement is executed. If, after execution, either Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that information upon which this Settlement Agreement is based, either Party may withdraw from the Settlement Agreement with written notice to the other Party.

21) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation;

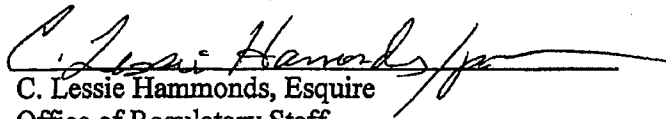
22) This Settlement Agreement shall be interpreted according to South Carolina law;

23) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the

document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

WE AGREE:

**Representing the Office of Regulatory Staff**

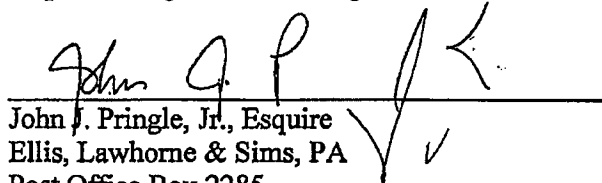


C. Lessie Hammonds, Esquire  
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Email: [lhammon@regstaff.sc.gov](mailto:lhammon@regstaff.sc.gov)

2/26/09  
Date

WE AGREE:

**Representing Total Holdings, Inc.**



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Ellis, Lawhorne & Sims, PA  
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2/26/09  
Date